

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

UNITED STATES OF AMERICA

Plaintiff

vs

CRIMINAL 03-0355CCC

1) ALEJANDRO ORTIZ-MENDEZ
a/k/a Andrew, a/k/a Andro
(Counts One, Two, Three, Four, Five, Eleven, Twelve, Thirteen)
2) LEONEL ORTIZ-MENDEZ
(Counts One, Two, Three, Six, Twelve, Thirteen)
3) EDGARDO J. LOPEZ-RODRIGUEZ
a/k/a Gato
(Counts One, Two, Seven, Twelve, Thirteen)
4) LEONEL U. DELIZ-QUINONES
(Counts, One, Two, Twelve, Thirteen)
5) HECTOR CANDELARIA-RIVERA
(Counts One, Two, Eight, Twelve, Thirteen)
6) PEDRO GONZALEZ-RODRIGUEZ
(Counts One, Two, Nine, Twelve, Thirteen)
7) LYDIA GARCIA-GONZALEZ
(Counts One, Two, Three, Four, Twelve, Thirteen)
8) JESSICA AMADOR-GARCIA
(Counts One, Two, Four, Twelve, Thirteen)
9) FRANCISCO ESPADA-MENDEZ
(Counts One, Two, Ten, Twelve, Thirteen)
10) TOMAS ORTIZ-MARGARIDA
(Counts One, Two, Twelve, Thirteen)

Defendants

ORDER

Before the Court are the Objections to the Pre-Sentence Report (PSR) of defendant Pedro González-Rodríguez filed by him on October 29, 2004 (**docket entry 263**) and supplemented on November 18, 2004 (**docket entry 276**), as well as the United States' Objection filed on November 4, 2004 (**docket entry 268**).

Both parties have objected to the U.S. Probation Officer's determination that the amount of money laundered by defendant was \$395,659.00, and not the \$70,000.00 stipulated by the parties in their Plea Agreement. See docket entry 191, at p. 5, ¶7(A)(a). The U.S. Probation Officer (USPO) has explained that in assessing the amount laundered by defendant she relied on a report of investigation prepared by an investigating agent and provided to her by the Assistant U.S. Attorney, while defendant contends that said report is unreliable and the government represents that it took into consideration defendant's role and participation in the conspiracy in arriving at the final amount stipulated in the Plea Agreement.

In reviewing the report of investigation which portrays defendant as having laundered more than five times the amount stipulated by the parties in their Plea Agreement, and including

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said information in the PSR, the USPO did exactly what the Court expects from her: obtain all the information relevant to sentencing and apprise the Court about it. While the Court recognizes her thoroughness, however, it also notes that the report of investigation does not give any details as to how the amount attributed to defendant was actually computed by the authoring agent. Given that the United States, disregarding the report of one of its own agents, later opted through the Plea Agreement to impute defendant with a reduced amount of laundered money, the Court will abide by said stipulation and will not hold him accountable for the amount of \$395,659.00 stated in the report of investigation. Accordingly, the parties' objection to the U.S. Probation Officer's determination on the amount of money laundered by defendant is SUSTAINED.

In addition, the United States has objected to the inclusion in the PSR of the names of nine individuals identified as members of the conspiracy charged which were not so named in the indictment. As to this objection, the Court has been informed by the USPO that the information on the nine individuals listed as members of the money-laundering conspiracy was also obtained from a list provided to her by the government's agent. The fact that they were not charged in the indictment, which is all the government avers to oppose their inclusion in the PSR, is irrelevant. Unless the government certifies to the Court that none of those nine individuals participated in the money-laundering activities as described in the PSR, the information on their names and amounts laundered will remain in the PSR.

The defendant, in turn, raises as an additional objection the USPO's failure to include in the PSR that it was defendant's drug addiction what prompted him to commit the offense. In her Second Addendum filed on November 18, 2004 (**docket entry 279**), the USPO concurs with defendant and explains that due to an oversight said statement was not added before. Accordingly, the PSR shall be amended to reflect that defendant has stated that he became involved in the offense in order to support his drug habit.

SO ORDERED.

At San Juan, Puerto Rico, on September 12, 2005.

S/CARMEN CONSUELO CEREZO
United States District Judge